



## 2005 SENATE BILL 347

September 28, 2005 – Introduced by Senators S. FITZGERALD, KANAVAS and LEIBHAM, cosponsored by Representatives LOEFFELHOLZ, GARD and J. FITZGERALD. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

- 1     **AN ACT** *to amend* 71.07 (6e) (a) 1. and 71.07 (6e) (a) 5.; and *to create* 71.07 (6e)  
2           (a) 1m. and 71.07 (6e) (c) 3. of the statutes; **relating to:** expanding eligibility  
3           for the veterans and surviving spouses property tax credit.

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### *Analysis by the Legislative Reference Bureau*

Under current law as created in the budget bill, 2005 Wisconsin Act 25, there exists a refundable individual income tax credit that may be claimed by certain U.S. armed forces veterans and by the unremarried surviving spouses of certain veterans or members of the national guard or reserves. The amount of the credit that may be claimed is the amount of property taxes paid by a claimant on the claimant's principal dwelling in the year to which the claim relates. Because the credit is refundable, if the amount of the credit for which the claimant is eligible exceeds the claimant's tax liability, the excess amount of the credit is paid to the claimant by check.

Under this bill, the eligibility for the credit is expanded to ensure that if a principal dwelling is owned jointly by spouses or as marital property, where only one of the spouses is an eligible veteran, the credit may be claimed for the full amount of taxes paid on the principal dwelling. Also under the bill, if an eligible veteran and his or her spouse file separate tax returns, each spouse may claim a percentage of the credit based on his or her ownership interest in the eligible veteran's principal dwelling.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 71.07 (6e) (a) 1. of the statutes, as created by 2005 Wisconsin Act  
2 25, is amended to read:

3           71.07 **(6e)** (a) 1. “Claimant” means an eligible unremarried surviving spouse  
4 ~~or, an eligible veteran, or an eligible spouse~~ who files a claim under this subsection.

5           **SECTION 2.** 71.07 (6e) (a) 1m. of the statutes is created to read:

6           71.07 **(6e)** (a) 1m. “Eligible spouse” means the spouse of an eligible veteran who  
7 files a separate return.

8           **SECTION 3.** 71.07 (6e) (a) 5. of the statutes, as created by 2005 Wisconsin Act  
9 25, is amended to read:

10           71.07 **(6e)** (a) 5. “Property taxes” means real and personal property taxes,  
11 exclusive of special assessments, delinquent interest, and charges for service, paid  
12 by a claimant, and the claimant’s spouse if filing a joint return, on the claimant’s  
13 eligible veteran’s or unremarried surviving spouse’s principal dwelling in this state  
14 during the taxable year for which credit under this subsection is claimed, less any  
15 property taxes paid which are properly includable as a trade or business expense  
16 under section 162 of the Internal Revenue Code. If the principal dwelling on which  
17 the taxes were paid is owned by 2 or more persons or entities as joint tenants or  
18 tenants in common or is owned by spouses as marital property, “property taxes” is  
19 that part of property taxes paid that reflects the ownership percentage of the  
20 claimant, except that this limitation does not apply to spouses who file a joint return.

21 If the principal dwelling is sold during the taxable year, the “property taxes” for the

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1 seller and buyer shall be the amount of the tax prorated to each in the closing  
2 agreement pertaining to the sale or, if not so provided for in the closing agreement,  
3 the tax shall be prorated between the seller and buyer in proportion to months of  
4 their respective ownership. "Property taxes" includes monthly parking permit fees  
5 in respect to a principal dwelling collected under s. 66.0435 (3) (c).

6 **SECTION 4.** 71.07 (6e) (c) 3. of the statutes is created to read:

7 71.07 **(6e)** (c) 3. If an eligible veteran and an eligible spouse file separate  
8 returns, each spouse may claim a credit under this subsection based on their  
9 respective ownership interest in the eligible veteran's principal dwelling.

10 **SECTION 5. Nonstatutory provisions.**

11 (1) EXEMPTION FROM CERTAIN LEGISLATIVE RULES OF PROCEEDINGS. Section 20.003  
12 (4) of the statutes does not apply to the actions of the legislature in enacting this act.

13 **SECTION 6. Initial applicability.**

14 (1) This act first applies to taxable years beginning on January 1, 2005.

15 (END)